IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 13816 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE J.M.PANCHAL

THE HON'BLE SMT. JUSTICE ABHILASHA KUMARI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ANILKUMAR R.JAIN PRESIDENT - Petitioner(s)
Versus
TORRENT POWER AEC LTD. THR' CHAIRMAN & 1 - Respondent(s)

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Appearance :
MRS NISHA M PARIKH for Petitioner(s) : 1,
MS BHAVNA M PARIKH for Petitioner(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 1
MR RM CHHAYA for respondent No.2

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL

and

THE HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 10/08/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)

1. Rule. Mr. R.M.Chhaya, learned counsel, waives service of notice on behalf of the respondent No.2. The record indicates that though the respondent No.1 i.e. Torrent Power AEC Ltd is duly served with notice for final disposal of the petition, it has neither appeared through its lawyer nor through its constituted agent nor has filed affidavit-in-reply controverting the averments made in the petition. Having regard to the facts of the case, the petition is taken up for final hearing today.

2. By filing this petition under Article 226 of the Constitution of India, Mr. Anilkumar R. Jain, who is President of Ratnadip Vatva Association 1 to 21, Radhavallabh Park, Nigam Society Road, Swaminarayan Smruti Mandir Road, Vatva, Ahmedbad, has prayed to issue a writ of mandamus or any other appropriate writ or order, directing the respondent No.1 i.e. Torrent Power AEC Ltd., to grant electricity connection to the premises situated at Ratnadip Vatva Association 1 to 21, Radhavallabh Park, Nigam Society Road, Swaminarayan Smruti Mandir Road, Vatva, Ahmedbad.

3. The record shows that Final Plot No.4, Block/Tenament Nos.1 to 21 belong to the petitioner and others. They wanted to develop the land belonging to them. Therefore, they

applied to the Ahmedabad Municipal Corporation for grant of Development Permission. The Ahmedabad Municipal Corporation granted two commencement letters (Raja Chiths) dated August 11, 2005, permitting the petitioner and others to develop the plot belonging to them, which is quite evident from the contents of two commencement letters produced by the petitioner at Annexure “C” to the petition. On the basis of the commencement letters, the petitioner has constructed 21 residential units at the address mentioned earlier. After construction of the residential units was over, the petitioner should have obtained Building Use Permission and thereafter should have applied to the respondent No.1 for supply of the electricity connection to the units constructed by him. However, without obtaining Building Use Permission, the petitioner applied to the respondent No.1 for supply of electricity to the units constructed by him. The said request has been turned down by the respondent No.1 which is quite evidence from the contents of the letter dated June 16, 2006, addressed by the General Manager of the respondent No.1 to the petitioner, which is produced at Annexure “A” to the petition. By the said communication, the petitioner has been called upon to produce either Building Use Permission or conditional order of the High Court to enable the respondent No.1 to supply electricity connection to the premises

constructed by the petitioner. Under the circumstances, the petitioner has filed the instant petition and claimed relief to which reference is made earlier.

4. The petition was placed for admission hearing before this Bench on July 18, 2006 and after hearing the learned counsel for the petitioner, notice for final disposal of the petition was issued making it returnable on July 10, 2006. As indicated above, the respondent No.1 is duly served, but it has neither appeared before the Court nor contested the petition.

5. This Court has heard Mrs. Nisha. M.Parikh, learned counsel for the petitioner and Mr. R.M.Chhaya, learned counsel for the respondent No.2 and considered the documents forming part of the petition. Having regard to the facts of the case, this Court is of the opinion that interest of justice would be served if following directions are issued :

1. The petitioner will approach the Ahmedabad Municipal Corporation for obtaining Building Use Permission within thirty days from today with a proper application/form/format and by paying requisite fee, if any.

(2) The Ahmedabad Municipal Corporation is directed to take decision on the application, which may be submitted by the

petitioner, within four months from the date of receipt of the same.

(3)The petitioner shall apply to the respondent No.1, i.e. Torrent Power AEC Limited, for providing electricity connection to 21 residential units constructed by him with a proper application/ form/format and by paying charges within a week.

(4)The respondent No.1, i.e. Torrent Power AEC Limited, is directed to provide electricity connection to the residential units constructed by the petitioner within one month on usual terms and conditions.

(5)In case the Ahmedabad Municipal Corporation is not approached by the petitioner for obtaining Building Use Permission within the period stipulated in this order, the Ahmedabad Municipal Corporation shall inform the Torrent Power AEC Limited to disconnect the electricity supply made available to the residential units constructed by the petitioner and in such an eventuality, it

would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to the residential units constructed by the petitioner within a period of fifteen days.

(6)In case the Ahmedabad Municipal Corporation does not grant Building Use Permission, it will ask the Torrent Power AEC Limited to disconnect the electricity supply provided to the residential units constructed by the petitioner within a period of fifteen days and, thereupon, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to the residential units constructed by the petitioner.

(7)The petitioner shall file an Undertaking before the Torrent Power AEC Limited to the effect that in the event the Building Use Permission is not granted by the Ahmedabad Municipal Corporation, the petitioner will have no objection to disconnection of electricity supply provided to the

residential units constructed by him. This Undertaking shall be filed along with the application/form/format meant for the purpose.

6. Rule is made absolute subject to above referred to directions. There shall be no order as to costs. Direct Service is permitted.

(J.M.Panchal,J.)

(Smt. Abhilasha Kumari, J.)

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